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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

VICTOR MANUEL BECERRIL, JR.,

Defendant and Appellant.

F077730

(Super. Ct. No. F17900878)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Adolfo M. Corona, Judge.

Carol Foster, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Poochigian, Acting P.J., Detjen, J. and DeSantos, J.

Appellant Victor Manuel Becerril, Jr., pled no contest to second degree robbery (Pen. Code, § 211)¹ and admitted a personal use of a firearm enhancement (§ 12022.53, subd. (b)). Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The confidential victim (CV) communicated with Becerril, whom he knew as “Nate,” through Facebook for some time prior to the underlying incident in this matter.

On November 1, 2017, at approximately 7:00 p.m., the CV picked up Becerril and drove to a fast food restaurant. Becerril began asking the CV questions like where he worked and if he was willing to buy Becerril anything, which made the CV think Becerril was trying to determine how much money the CV had. After a while, Becerril asked the CV to take him to meet his cousin to pick up something and the CV drove to the location. While they sat in the CV’s truck, Becerril started texting. Five minutes later, two men began walking towards the truck and the CV asked why there were two men if Becerril was only picking up something. Meanwhile, the men got in the truck and immediately began demanding that the CV give them a gold watch he was wearing that was worth \$600 and he complied. Becerril and the men also attempted to grab the CV’s phone while simultaneously reaching into his jean pockets. The CV attempted to get out of the truck but was held down. Becerril then pulled out a handgun, stated that he would “ ‘smoke’ ” the CV, and hit him five times on the right side of his head, causing swelling and several lacerations. The CV eventually was able to get out of the truck and scream for help, causing Becerril and the two men to flee, leaving Becerril’s backpack and cell phone in the truck. The CV subsequently positively identified Becerril as the person who assaulted him and whom he knew as Nate.

¹ All further statutory references are to the Penal Code.

On February 3, 2017, an officer conducted a traffic stop of the vehicle Becerril was driving. Becerril got out of the vehicle and ran away. Officers were unable to locate Becerril, but between the driver's seat and the vehicle's center console they found a stolen nine-millimeter semiautomatic handgun with two live rounds.

On February 9, 2017, Becerril was taken into custody. During a post-arrest interview, Becerril denied knowing the CV or going with him to a fast food restaurant. However, he admitted that the backpack and cell phone found in the victim's truck and the gun found during the traffic stop belonged to him.

During a recorded call from jail, Becerril stated that he fell asleep and the " 'gay dude' " tried to touch him so he threw his cell phone at him in self-defense.

On June 26, 2017, the Fresno County District Attorney filed an information charging Becerril with robbery (§ 211/count 1), possession of a firearm by a felon (§ 29800, sub. (a)(1))/count 2), and resisting arrest (§ 148, subd. (a)(1)/count 3). Count 1 also alleged a personal use of a firearm enhancement (§ 12022.53, subd. (b)).

On May 24, 2018, Becerril pled no contest to robbery and admitted the firearm enhancement in that count in exchange for the dismissal of the remaining counts and a lid of 12 years. Based on his plea, the court found Becerril in violation of probation in an unrelated case.

On June 22, 2018, the court sentenced Becerril to an aggregate prison term of 12 years: the mitigated term of two years on his robbery conviction, a 10-year arming enhancement, and a concurrent two-year term on his conviction in the unrelated case in which he violated probation.

The court also awarded Becerril 573 days of presentence custody credit, consisting of 499 days of actual custody credit and 74 days of conduct credit, and it imposed a \$600 restitution fine and a suspended parole revocation fine in the same amount.

On June 28, 2018, Becerril filed a timely notice of appeal challenging only his sentence.

Becerril's appellate counsel has filed a brief that summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende, supra*, 25 Cal.3d 436.) Becerril has not responded to this court's invitation to submit additional briefing.

Following an independent review of the record, we find that no reasonably arguable factual or legal issues exist.

DISPOSITION

The judgment is affirmed.